



Karen Weitkunat, Mayor
Gerry Horak, District 6, Mayor Pro Tem
Bob Overbeck, District 1
Lisa Poppaw, District 2
Gino Campana, District 3
Wade Troxell, District 4
Ross Cunniff, District 5

City Council Chambers
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado

Cablecast on City Cable Channel 14
on the Comcast cable system

Steve Roy
City Attorney

Darin Atteberry
City Manager

Wanda Nelson
City Clerk

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (TDD 224-6001) for assistance.

Regular Meeting May 20, 2014

Proclamations and Presentations 5:30 p.m.

- Proclamation Declaring May as Historic Preservation Month.
- Proclamation Declaring May as National Physical Fitness and Sports Month.

Regular Meeting 6:00 p.m.

- **PLEDGE OF ALLEGIANCE**
- **CALL MEETING TO ORDER**
- **ROLL CALL**
- **AGENDA REVIEW: CITY MANAGER**
 - City Manager Review of Agenda.

- Consent Calendar Review

This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this calendar be “pulled” off the Consent Calendar and considered separately.

- Council-pulled Consent Calendar items will be considered before Discussion Items.
- Citizen-pulled Consent Calendar items will be considered after Discussion Items.

- **CITIZEN PARTICIPATION**

Individuals who wish to make comments regarding items scheduled on the Consent Calendar or wish to address the Council on items not specifically scheduled on the agenda must first be recognized by the Mayor or Mayor Pro Tem. **Before speaking, please sign in at the table in the back of the room.** The timer will buzz once when there are 30 seconds left and the light will turn yellow. The timer will buzz again at the end of the speaker’s time. Each speaker is allowed 5 minutes. If there are more than 6 individuals who wish to speak, the Mayor may reduce the time allowed for each individual.

- State your name and address for the record
- Applause, outbursts or other demonstrations by the audience is not allowed
- Keep comments brief; if available, provide a written copy of statement to City Clerk

- **CITIZEN PARTICIPATION FOLLOW-UP**

Consent Calendar

The Consent Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Pulled Consent Items. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

1. Second Reading of Ordinance No. 064, 2014, Authorizing the Transfer of \$2,000,000 in Existing Capital Appropriations from the Northwest Trunk Sewer Expansion Wastewater Capital Project to a New Capital Project for the Construction of a Sewer Interceptor on North Shields Street.

This Ordinance, unanimously adopted on First Reading on May 6, 2014, transfers funds previously appropriated for a northwest trunk sewer extension to be used for the construction of a similar project on North Shields Street. The proposed project will serve a similar purpose of environmental stewardship by removing a significant number of properties from individual septic systems and leach fields.

Larimer County is currently planning on the reconstruction of Shields Street north of the Poudre River in 2015 to coincide with the bridge replacement project. Staff has met with the County Engineering department and will be able to coordinate the two projects to minimize the length of time the area would be impacted by construction, if the two projects were to be done independently.

2. Second Reading of Ordinance No. 065, 2014, Amending Chapter 15, Article XIV of the City Code Regarding Outdoor Vendors.

This Ordinance, unanimously adopted on First Reading on May 6, 2014, amends Chapter 15 of the City Code regarding Outdoor Vendors with two minor amendments to further support the outdoor vending community. In July 2012, City Council adopted new outdoor vendor regulations based on a comprehensive study completed by staff. Since the inception of the new regulations, staff has been monitoring the activity and working with the mobile vending community to address opportunities for improvement to the Code. Staff is recommending two updates to address the opportunities.

3. Second Reading of Ordinance No. 066, 2014, Amending Chapter 2, Article II, Division 3 of the City Code Pertaining to Appeals Procedure.

This Ordinance, unanimously adopted on First Reading May 6, 2014, clarifies and incorporates process improvements relating to the procedure for the hearing of appeals by City Council. Staff contacted members of the public who expressed concerns about the current process and provided them with copies of the proposed changes. No suggested changes were received. Staff also met with the Board of Realtors legislative committee to review the proposed changes. Comments from the committee were focused more on the ease in which an appeal can be filed rather than the specific changes proposed in this Ordinance.

4. Second Reading of Ordinance No. 067, 2014, Making Certain Amendments to Chapter 26 of the City Code Pertaining to Electric Rates, Fees and Charges Associated with the Provision of Net-Metered Service.

This Ordinance, unanimously adopted on First Reading on May 6, 2014, allows for certain operational efficiencies to be realized by Utilities for the residential net-metering program without negatively impacting the financial benefits of the program for participants. The current accounting process for net-metering customers is manually-intensive. With the deployment of the advanced metering infrastructure for all residential customers, it is now possible to provide these customers with monthly information on their energy production and to implement an automated monthly settlement process rather than the current annually settled process. In order to ensure that no additional financial burden is placed on existing net-metering customers, it is necessary to make the current implicit credit for distribution facilities charges explicit in the City Code through the current rate Ordinance being presented.

5. Items Relating to Common Private Service Lines for Water and Wastewater Service.

A. Second Reading of Ordinance No. 069, 2014, Amending Article III of Chapter 26 of the City Code to Allow Common Private Service Lines for Water Service in Certain Circumstances.

B. Second Reading of Ordinance No. 070, 2014, Amending Article IV of Chapter 26 of the City Code to Allow Common Private Service Lines for Wastewater Service in Certain Circumstances.

These Ordinances, unanimously adopted on First Reading on May 6, 2014, amend Chapter 26 of the City Code to revise the requirements for how separate water and sewer services are provided to individual properties. The City Code currently requires each individual single family dwelling to connect directly to a City water or sewer main. Current high density development practices can create situations of multiple long service lines underground congesting the provided easements through the entire green space of a property and impacting the ability to plant trees or install other surface features. Ordinance No. 069, 2014, allows for a "Common Private Water Service Line" that is owned and maintained by a homeowner's association, or other legal entity, and serve up to 6 individual properties. Ordinance No. 070, 2014, allows for a "Common Private Wastewater Service Line" that is owned and maintained by a homeowner's association, or other legal entity, and serve up to 6 individual properties.

6. Second Reading of Ordinance No. 071, 2014, Vacating Portions of Ziegler Road as Dedicated in Book R at Page 118 of the Larimer County Records.

This Ordinance, unanimously adopted on First Reading on May 6, 2014, vacates the portions of Ziegler Road right-of-way that are no longer necessary or desirable to retain for public street purposes. The portions to be vacated are those portions that were dedicated in 1882 and not rededicated with the Fossil Lake PUD First Filing plat and are portions of right-of-way that are not needed for the existing street system.

7. Second Reading of Ordinance No. 072, 2014 Vacating Right-of-Way as Dedicated on the Final Plats of Waterfield P.U.D. First Filing and Waterfield P.U.D. Second Filing.

This Ordinance, unanimously adopted on First Reading on May 6, 2014, vacates portions of right-of-way within Waterfield PUD First and Second Filings that are no longer necessary or desirable to retain for street purposes. These locations are being replatted as Waterfield Third Filing and proposing new rights-of-way to be dedicated, which was approved through an Administrative Hearing on February 11, 2014.

8. Second Reading of Ordinance No. 073, 2014, Appropriating Prior Year Reserves in the General Fund to Fund the Fort Collins West Nile Virus Management Program for the 2014 Season.

Ordinance No. 73,2014, unanimously adopted on First Reading on May 6, 2014, changes the funding sources for the West Nile Virus Management Program. The Ordinance appropriates \$131,492 in General Fund reserves and removes all Natural Areas Fund dollars allocated to the West Nile Virus Management Program. This action will not reduce the overall program budget. The fund allocation change was requested to better align the program's public health purpose and citywide impact with the source of operating dollars.

9. First Reading of Ordinance No. 074, 2014, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2014 Adopted City Budget.

The purpose of this item is approving an Appropriation Ordinance appropriating \$6,221,325 from prior year reserves in the Natural Areas Fund. Nearly 80% of the funds will be used for land conservation.

10. First Reading of Ordinance No. 075, 2014, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund for the North College Improvements - Conifer to Willox Project and Authorizing the Transfer of Appropriations from the North College Improvements - Vine to Conifer Project Into the North College Improvements - Conifer to Willox Project.

The purpose of this item is to appropriate federal grant funds into the Capital Project Fund for the North College Improvements Project - Conifer to Willox. City Council appropriated the final piece of funding necessary for the North College Improvements Project - Conifer to Willox through budget revision actions at the end of 2013. Since that time, City staff successfully secured additional funding from the Colorado Department of Transportation (CDOT) via their Responsible Acceleration of Maintenance and Partnerships (RAMP) program.

This Ordinance completes the final project budget with appropriations of (1) New RAMP funding, (2) Previously secured fiscal year 2015 federal grant funding, and (3) Savings from the recently completed North College Improvements -- Vine to Conifer project. These new funding amounts are summarized as follows:

- RAMP funding: \$3,894,000
- Final Savings from N. College Improvements - Vine to Conifer project: \$1,600,000
- Fiscal year 2015 Federal Grant Funds: \$1,508,000.

Previous budget estimations for the project included \$1,000,000 in state resurfacing funds that are now included in the RAMP funds, and estimated \$1,300,000 in savings from the previous project. The final total project budget has now been revised from \$11,800,000 to \$12,000,000. The net result of these actions is that \$2.9 million of previously appropriated City funds is no longer necessary to complete the North College project.

11. First Reading of Ordinance No. 076, 2014 Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and the Fort Collins Convention and Visitors Bureau.

The purpose of this item is to appropriate \$195,981, of which \$83,619 is for 2014 Cultural Development and Programming Activities (Fort Fund), \$8,977 is for 2014 Tourism Programming (Fort Fund), and \$103,385 is for 2014 Fort Collins Convention and Visitors Bureau (CVB) activities from Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging Taxes for 2013 were estimated at \$955,000 with actual Lodging Tax revenues collected equaled \$1,102,693 (\$147,693 over estimate).

12. First Reading of Ordinance No. 077, 2014, Amending Chapter 3 of The City Code to Allow Spirituous Liquor Tastings and to Increase the Number of Days Tastings are Permitted.

The purpose of this item is to amend the City Code to allow for spirituous (liquor) tastings, similar to what is currently allowed for beer and wine. This amendment will also extend the number of days tastings are permitted up to the maximum 104 tasting events per year.

13. First Reading of Ordinance No. 078, 2014, Designating the Landblom Property, 116 North Pearl Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owners of the property, Kenneth and Michele Christensen, are initiating this request for Fort Collins Landmark designation of the Landblom Property at 116 North Pearl Street.

14. First Reading of Ordinance No. 079, 2014, Authorizing the Conveyance of City Property to CCF Investments, LLC in Exchange for a New Park Site.

The purpose of this item is to convey property by Quit Claim Deed to CCF Investments, LLC. The City Property to be conveyed is near East Vine Drive and Turnberry and is located in Waterfield PUD Second Filing. This land was the location of a park in Waterfield Second Filing. The location of the park is moving with the Third Filing of Waterfield. The current park site will be conveyed to the developer, CCF Investments, LLC by Quit Claim Deed.

15. Resolution 2014-034 Approving an Exception to the Use of a Competitive Process for the Purchase of Sealed-Design, Medium Voltage Electric Circuit Switches From S&C Electric Company.

The purpose of the item is to request an exception to the normal competitive bid process for the purchase of sealed-design, medium voltage electric circuit switches, as the alternative is contrary to the City's interests. To maintain the reliability and effectiveness of the electric distribution system as it expands to support citizen-customers, a number of projects have been identified that will require the installation of medium voltage, pad-mounted switches. In addition to the need to support system expansion, there are a number of projects where staff must use sealed-design switches for areas where there is potential for flood waters to create reliability and safety problems for air-insulated switches. The new Woodward headquarters and manufacturing site is one of the sites that will require reliable, sealed-design switches.

16. Resolution 2014-035 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Grant Disbursements.

The purpose of this item is to adopt the recommendations of the Cultural Resources Board to disburse Fort Fund grants to community events from the Cultural Development and Programming and Tourism Programming Accounts.

17. Resolution 2014-036 Declaring the City Council's Commitment to and Support for Participation by the City in the Creative District Certification Program.

The purpose of this item is to request formal support through a City Council Resolution of an application for Creative District Candidacy for a proposed Downtown Fort Collins Creative District. The Resolution, if approved, will be submitted with an application for Creative District Candidacy to Colorado Creative Industries, a division of the Colorado Office of Economic Development and International Trade. The Candidacy process is a two-year incubation style program.

18. Resolution 2014-037 Endorsing and Supporting Colorado State University's Participation in the National EcoCAR2 Competition.

The purpose of this resolution is to support Colorado State University's participation in the national EcoCAR2 competition by adopting a resolution expressing City endorsement of their competition and supporting the program.

The Mechanical Engineering Department at Colorado State University is participating in the EcoCAR2 national competition, an advanced vehicle technology competition sponsored by the US Department of Energy, General Motors and dozens of industrial sponsors. The goal is to develop an engineering workforce to solve the product development and design challenges that every part of the U.S. technology sector will need to overcome in the coming years. EcoCAR2 challenges fifteen undergraduate programs across the country to design, develop, and test a high technology, high efficiency hybrid electric vehicle. More than 100 CSU students have worked to convert Chevrolet's new 2013 Malibu into a mean green hydrogen powered plug-in hybrid electric car. On June 12, they will be attending a competition Ride and Drive event in Washington, D.C.

19. Resolution 2014-038 Making Findings of Fact and Conclusions Regarding the Appeal of the March 13, 2014, Planning and Zoning Board's Decision Regarding the Bella Vira Filing 2 Major Amendment and Replat for the project known as the Bella Vira, Filing 2, Final Development Plan.

The purpose of this item is to have Council adopt by resolution findings of fact in support of its decision on the appeal.

On March 21, 2014 an appeal was filed concerning the Planning and Zoning Board Hearing decision regarding a proposed Major Amendment and Replat to the Bella Vira, Phase 2, Final Development Plan (the FDP). An Amended Appeal was received on March 28, 2014.

On May 6, 2014, City Council voted 7-0 on the motion that the Planning and Zoning Board conducted a fair hearing in approving the FDP major amendment and replat, the Planning and Zoning Board properly interpreted and applied the relevant provisions of the Land Use Code, and that accordingly, the decision of the Planning and Zoning Board is upheld.

20. Resolution 2014-039 Approving the Stipulated Determination of Vested Rights Between the City and Bella Vira Town Homes, Inc.

The purpose of this item is to formalize the determination of vested rights. Bella Vira Town Homes Incorporated (the Developer) is the developer of the Bella Vira Subdivision, Filing Number 2, a 3.471 acre development, and has been working diligently pursuing the development of the project. An issue has arisen as to a potentially late filing of an application for an extension which was due to a City clerical error. Accordingly, the Developer has filed an application for a Determination of Vested Rights under Division 2.13 of the Land Use Code (LUC) and the City Manager and City Attorney

agree that the application for Determination of Vested Rights should be granted. The proposed Resolution would formalize the determination of vested rights.

END CONSENT

- **CONSENT CALENDAR FOLLOW-UP**

This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

- **STAFF REPORTS**

A. Water Main Replacement Project - College Avenue

- **COUNCILMEMBER REPORTS**

- **CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS**

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (five minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

21. Second Reading of Ordinance No. 068, 2014, Clarifying Ordinance No. 028, 2014, Relating to Wastewater Rates. (staff: Lance Smith; no staff presentation; 5 minute discussion)

This Ordinance, adopted on First Reading on May 6, 2014 by a vote of 6-0 (Campana recused) clarifies the City Council's intent in adopting Ordinance No. 028, 2014, in order to ensure there is no confusion regarding the correct wastewater rates for 2014. Ordinance No. 150, 2013 established new wastewater rates for all customers to be effective January 1, 2014. These rates were implemented as intended for all bills on or after January 1, 2014. Ordinance No. 028 added language to certain sections of the City Code regarding how wastewater rates are charged during construction of multi-family residential developments. Because there is potential for confusion and misrepresentation of the City Council's intent from the way Ordinance No. 028, 2014, as finally published, represented Section 26-280 of the City Code, this Ordinance is intended to clarify the City Council's intent and ensure correct codification of the 2014 wastewater rates.

22. Resolution 2014-040 Adopting the Lincoln Corridor Plan as an Element of the Comprehensive Plan of the City. (staff: Amy Lewin, Pete Wray; 5 minute staff presentation; 30 minute discussion)

The purpose of this item is to adopt the *Lincoln Corridor Plan* as an element of the City's Comprehensive Plan. Through an extensive community engagement process, the Plan was prepared to:

1. Develop a vision and preliminary long-term multi-modal roadway design for Lincoln Avenue;
2. Identify related neighborhood improvement projects in the study area; and
3. Identify potential funding options, project phasing, and specific strategies and actions to implement the Plan.

The Lincoln Corridor Plan has been refined to reflect recent feedback from Council, including the proposed phasing option that would construct the roadway framework first and then add enhancements later, as funding allows.

23. Items Relating to the Spring Competitive Process. (staff: Sharon Thomas; 10 minute staff presentation; 30 minute discussion)

The purpose of this item is to approve the funding of the 2014 Spring Cycle of the Competitive Process

- A. Public Hearing and Resolution 2014-041 Approving the Programs and Projects that Will Receive Funds from the Federal Community Development Block Grant (CDBG) Program, HOME Investment Partnerships Program (HOME) and the City's Human Services Program (HSP).
- B. Hearing and First Reading of Ordinance No. 080, 2014, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Projects in the Community Development Block Grant (CDBG) Program.
- C. Public Hearing and Resolution 2014-042 Approving the Fiscal Year 2014 Home Investment Partnerships (HOME) Program's Administration and Project Budgets.
- D. Hearing and First Reading of Ordinance No. 081, 2014, Appropriating Unanticipated Revenue in the Home Investment Partnerships (HOME) Program.
- E. Public Hearing and Resolution 2014-043 Adopting the Citizen Participation Plan: 2014 Amendment as Required by the U.S. Department of Housing and Urban Development.

Resolution 2014-041 will complete the 2014 Spring Cycle of the Competitive Process for allocating \$3,229,902 in City financial resources to affordable housing projects, public service programs and administration of the program that will receive funding beginning October 1, 2014. Projects receiving program income and prior year funds (FY2013 and FY2012) can expend funds immediately. Ordinance No. 080, 2014, appropriates the City's FY2014 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD) and CDBG Program Income and transfers funds from FY2013 CDBG Reprogrammed funds and FY2012 CDBG Unprogrammed funds for allocation in FY2014. Resolution 2014-042 establishes the major funding categories within the HOME Program for the FY 2014 program year, which also starts on October 1, 2014. Specific projects for the use of the remainder of HOME funds will be determined in November as a result of the 2014 Fall Cycle of the Competitive Process. Ordinance No. 081, 2014, appropriates the City's FY2014 HOME Participating Jurisdiction Grant from HUD and HOME Program Income. Resolution 2014-043 approves the Citizen Participation Plan: 2014 Amendment, one of HUD's five required federal planning and reporting activities.

24. Consideration of Three Appeals of the Administrative Hearing Officer's March 19, 2014 Decision to Approve the Summit on College Parking Structure, Major Amendment. (staff: Seth Lorson, Laurie Kadrich; 15 minute staff presentation; 3 hour discussion)

On April 29, 2014, three separate parties filed a Notice of Appeal; the grounds for appeal are as follows:

Appellant Lester M. Kaplan and Appellant Jeffrey Leef:

- Failure to properly interpret and apply relevant provisions of the City Code, the Land Use Code and Charter.
- Failure to conduct a fair hearing in that:
 - The board, commission or other decision maker exceeded its authority or jurisdiction as contained in the Code or Charter;
 - The board, commission or other decision maker considered evidence relevant to its findings which was substantially false or grossly misleading.

Appellant Councilmember Cunniff:

- Other.

Council directed staff to prepare a matrix of allegations of appeal illustrating the grounds for appeal from each Appellant and the allegations similarities.

- **CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS**
- **OTHER BUSINESS**
- **ADJOURNMENT**

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.